

Waste Compliance and Mitigation Program Staff Report
Solid Waste Facilities Permit Modification for the San Martin Transfer & Recycling Station
SWIS No. 43-AA-0003
February 26, 2010

Background Information, Analysis, and Findings:

This report was developed in response to the Santa Clara County Local Enforcement Agency (LEA) request for Department of Resources Recovery and Recycling (Department) concurrence on the issuance of a proposed solid waste facilities permit modification for the San Martin Transfer & Recycling Station, SWIS No. 43-AA-0003, located in Santa Clara County, owned by Sunset Properties and operated by Recology South Valley. A copy of the proposed permit is attached. The report contains Waste Compliance and Mitigation Program (WCMP) staff's analysis, findings, and recommendations.

The proposed permit was initially received on January 4, 2010. A revised version of the permit was received on February 25, 2010. If no action is taken by April 26, 2010, the Department will be deemed to have concurred with the issuance of the proposed modified permit.

Proposed Changes

The following changes to the permit are being proposed:

	Current Permit (2005 SWFP)	Proposed Permit
Operator Name	South Valley Disposal & Recycling	Recology South Valley
LEA Permit Condition No. 17 (j)	Unless this permit is revised to extend this condition, this permit will expire on February 3, 2010. Sixty days prior to the expiration date, the operator shall submit a plan to the LEA addressing the waste removal and closure of the site.	Six (6) months prior to 2/3/2013 the operator must submit a plan for the closure and removal of all waste, waste handling operations and equipment and shall concurrently apply for a revision of this permit, if for any reason closure cannot occur.

Findings:

Staff recommends concurrence with the issuance of the proposed modified Solid Waste Facilities Permit. All of the required submittals and other findings required by Title 27, Section 21685 have been provided and made. Staff has determined that California Environmental Quality Act requirements have been met to support concurrence. The findings are summarized in the following table. The documents on which staff's findings are based have been provided to the Assistant Director with this Staff Report and are permanently maintained in the facility files maintained by the Waste Compliance and Mitigation Program.

CCR Title 27 Sections	Findings	
21685(b)(1) LEA certified complete and correct Report of Facility Information	The LEA provided the required certification in their permit submittal letter dated December 29, 2009.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

CCR Title 27 Sections	Findings	
21685(b)(2) LEA Five Year Permit Review	The permit was issued on February 17, 2005; the first Permit Review report was due on February 17, 2010, after the date that the proposed permit was submitted to the Department.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(3) Solid Waste Facility Permit	The LEA submitted a proposed solid waste facilities permit on January 4, 2010. A revised version of the permit was received on February 25, 2010.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685 (b)(4)(A) Consistency with Public Resources Code 50001	The LEA in their permit submittal package received on January 4, 2010 provided a finding that the facility is consistent with PRC 50001 and WCMP staff in the Jurisdiction Compliance and Audit Section found the facility is identified in the Countywide Siting Element as described in their memo dated February 4, 2010.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(7) Operations Consistent with State Minimum Standards	WCMP staff in the Compliance, Evaluations, and Enforcement Division (CEED) found that the facility was in compliance with all operating and design requirements during the inspection conducted on February 23, 2010. See compliance history below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(8) LEA CEQA finding	The LEA provided an initial finding in their permit submittal package received on January 4, 2010 that the proposed permit is consistent with and supported by the existing CEQA documentation. An Addendum to the San Martin Environmental Impact Report was filed with the Santa Clara County Planning Office on February 18, 2010. See details below.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21650(g)(5) Public Notice and or Meeting, Comments	The required Public Notice was posted by the LEA at the subject Facility and at the County of Santa Clara Department of Environmental Health office. No written comments were received by the LEA or WCMP staff.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
CEQA determination to support responsible agency's findings	The Department is a responsible agency under CEQA with respect to this project, a proposed modified solid waste facilities permit. WCMP staff has determined that the CEQA record can be used to support the Assistant Director's action on the proposed modified permit. See details below.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

Compliance History:

The facility was inspected by WCMP staff in the Compliance, Evaluation, and Enforcement Division on February 23, 2010. No Violations were noted.

In 2005 the LEA noted a violation of Title 14 Section 17414, Record Keeping. In 2006 there were no violations noted. In 2007 the LEA noted five violations; two were for Section 17408.1, Litter Control and three were for Section 17410.4 Vector, Birds and Animal Control. In 2008 the LEA noted two violations, one for Section 17416.1, Housekeeping and one for Section 17406.2 General Design Requirements. No violations were noted in all of 2009 and none for the first month of 2010.

The violation for litter control was cited due to trucks being loaded during high wind weather conditions (25-35 mph). The violations were later corrected when the operator implemented litter control measures including; cessation of truck loading on windy days, the installation of a 20 foot high litter fence at the loading area, and a litter picker stationed in the loading area. Vectors (rats) were observed in the recycle material bunkers. The operator was able to correct the violation by increasing visits from a pest control company, and by increasing the removal frequency of the materials in the bunkers.

In 2008, the violations were for Housekeeping and General Design Requirements associated with drainage and cleaning. The operator constructed a slightly sloped pad that improved drainage and the loading pit is emptied daily.

Environmental Analysis:

State law requires compliance with the California Environmental Quality Act either through the preparation, circulation and adoption/certification of an environmental document and mitigation reporting or monitoring program, or by determining that the proposal is categorically or statutorily exempt.

The County of Santa Clara, acting as Lead Agency has prepared the following environmental documents for the San Martin Transfer Station facility:

- An Environmental Impact Report (EIR), State Clearinghouse No. 2002052087, was circulated for public and responsible agency review from January 15, 2004 through March 1, 2004, and again from July 7, 2004 through September 9, 2004. The County Planning Commission certified the EIR on February 3, 2005. A Notice of Determination was filed with the State Clearinghouse on February 9, 2005.
- An Addendum to the EIR was prepared on February 18, 2010 by the LEA for additional determination that the prior use of the EIR action by the Santa Clara County Planning Commission is in support of an application for a Modified Solid Waste Facilities Permit that would allow continued operation of the Transfer & Recycling Station for an additional three years.

In the 2004 EIR, a determination was made that the project proponent would be implementing Alternative No. 4, which stated that the facility would operate for 5 years at the current location, at which time the facility would close, and relocate. In 2009, the County proposed to extend the closure date of the facility at this location to 2013.

After discussions with Department staff, the LEA determined that an Addendum to the EIR would be necessary to support the modification to the solid waste facilities permit to allow additional operation of this facility beyond the previously determined closure date. The LEA prepared and filed an Addendum to the EIR with the Santa Clara County Planning Office on February 18, 2010 (attached).

Staff recommends that the Department, acting as a Responsible Agency under CEQA, utilize the environmental document prepared by the Santa Clara County Planning Department as amended by the Santa Clara County Department of Environmental Health, in that there are no grounds under CEQA for the Department to prepare a subsequent or supplemental environmental document or assume the role of the Lead Agency for its consideration of the Permit.

Local Issues:

A review of the documentation of the public process indicates that in 2005 the local community was very concerned about the continued operation of the transfer facility. LEA indicates that according to Sylvia Hamilton, President of San Martin Neighborhood Alliance and Chair of the San Martin Planning Advisory Committee, which has been very involved in the revision process, her members have no issues with the facility and the three year operational extension. The project in 2005 included a hauling vehicle fleet yard in addition to the transfer station. The fleet yard was later removed from the proposal. Most of the resident's concerns were with the traffic associated with the fleet yard. The operator has also improved litter collection along the streets leading to the transfer station and vehicle queuing in the public streets has been eliminated.

According to the 2000 census, the population of Census Tract 744.05 indicates that the surrounding population is approximately 88.3% white, 0.6% black or African American, 7.3% Asian and 3.8% some other race. 31.1% of the total population in Census Tract 5124.02 identify themselves as Hispanic or Latino. 8% of the families in the Census Tract were below the poverty level. Staff has not identified any current environmental justice issues related to this item. Staff finds the project and permit process to be consistent with Government Code Section 65040.12, as there has been fair treatment of people of all races, cultures, and incomes with respect to the proposed action being recommended above.

Public Comments:

No public comments have been received by Department or LEA staff.

Department Staff Actions:

Staff called the LEAs attention to LEA Condition 17 (j) in the current permit that states that the SWFP expired on February 3, 2010. In consultation with staff the LEA suggested that the operator identify the unforeseen circumstances that slowed their ability to extend the closure date of the facility and request a Temporary Waiver of Terms (Title 14, Section 17211) for permit condition 17(j). LEA completed issuance of the Temporary Waiver of Terms and was executed by both the LEA and operator on February 18, 2010 (attached).

**ADDENDUM TO THE
SAN MARTIN TRANSFER STATION
SWIS # 43-AA-0003
ENVIRONMENTAL IMPACT REPORT (EIR)
(SCH# 2002052087)**

RECEIVED
FEB 18 2010

COUNTY OF SANTA CLARA
PLANNING OFFICE

**Prepared by: Santa Clara County
Department of Environmental Health
Local Enforcement Agency
1555 Berger Dr., Rm 300
San Jose, CA 95112**

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February 18, 2010
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File 8333-71-32-09P

**ADDENDUM TO THE SAN MARTIN TRANSFER STATION (SWIS # 43-AA-0003)
ENVIRONMENTAL IMPACT REPORT (EIR)**

Pursuant to Section 15162 of the CEQA Guidelines, the County of Santa Clara has determined that the project described below is pursuant to or in furtherance of an Environmental Impact Report which has been previously adopted and does not involve new significant impacts beyond those analyzed previously during CEQA for the EIR.

File Number	APN(s)	Date
8333-71-02P & 8333-71-32-09P	825-08-051 & -002	2/18/2010
Project Name	Project Type	
San Martin Transfer & Recycling Station	Addendum to EIR for SWF Permit Modification	
Owner	Applicant	
Sunset Properties (a subsidiary of Recology)	Recology South Valley (formerly South Valley Disposal and Recycling)	

PROPOSED PROJECT

The proposed project is to issue a "Modified" Solid Waste Facility Permit which changes just the one term and condition 17(j) of the current expired permit that would allow three more years of operation. The modified permit will also update the permit findings and new owner address and name changes of the ownership, such as Norcal becoming Recology.

INTRODUCTION

The project for the San Martin Transfer Station is located at 14070 Llagas Ave., San Martin, CA 95046. The project site is located less than a mile north of San Martin Avenue, in a rural area of San Martin that has both large commercial operations in the vicinity, as well as homes, a school, and small ranches or farms. It is bordered on one side by a seasonal creek. On the other side of the creek is a commercial property at 13920 Llagas that once was considered as part of the 2005 Use Permit application to serve as a refuse vehicle fleet yard. This site address has been used on past notices for the Santa Clara County Planning Commission meetings. The transfer station has operated on this site in the community for many years by the current operator, recently Recology South Valley, and previously South Valley Disposal and Recycling. The transfer station was built on the site of the old San Martin landfill and improved over the years.

This Addendum is prepared by the LEA, for additional determination that the prior use of the EIR action by the Santa Clara County Planning Commission is in support of an application for a "Modified" Solid Waste Facility Permit, for the continued use of a Transfer/Processing Facility for another 3 years. This Addendum and findings will be filed in the Master File held by the Planning Department and will be recertified at the discretion of the Planning Commission. It is intended to support the determination that a Supplemental EIR is not warranted to find that CEQA was fulfilled.

The LEA has filed for concurrence with the State CalRecycle, a modified permit with the condition requiring closure is changed commensurate with the date of closure established by the Use Permit Modification. The public notice of the proposed Modified Permit was posted at the facility entrance prior to submitting this application as well as at the Department bulletin board.

PRIOR ENVIRONMENTAL REVIEW

The Architectural and Site Approval and Use Permit modification application submitted by the operator for the modification of the current use permit was considered and approved in 2005 by the Santa Clara County Planning Commission. This was based upon an Environmental Impact Report

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(SCH#2002052087) which resulted in the adoption of specific measures to minimize impacts to the neighborhood. In addition to the Transfer Station the project scope included an adjacent property at 13920 Llagas Avenue, San Martin, as the site of a new refuse collection and transfer vehicle fleet and maintenance yard. This additional truck fleet yard would have resulted in several new significant impacts and was ultimately dropped from the final project adopted. The final project scope limited the existing transfer operations to continue with improvements to the traffic plan and set a reasonable closure date.

An EIR was filed with the State Clearinghouse (SCH #2002052087) and certified by the County of Santa Clara Planning Commission on 2/3/05. The EIR describes and supports the design and operations which will not be changed with the issuance of a modified solid waste facility permit. A Notice of Determination was filed with the State Clearinghouse on 2/9/05.

Per the California Environmental Quality Act (CEQA) of 1970 (as amended), all development permits processed by the County Planning Office which require discretionary approval are subject to environmental review. A new Negative Declaration or an Environmental Impact Report (EIR) is not required if a previous CEQA document has been prepared and adopted or certified which adequately address all the possible environmental impacts of the proposed project and (a) no substantial changes are proposed in the project which will result in new significant environmental effects, (b) no substantial changes have occurred with respect to the circumstances under which will result in the identification of new significant impacts, or (c) no new information is available which shows that the project will have new significant impacts or mitigation measures and alternatives which were previously found to be infeasible would now in fact be feasible (CEQA Guidelines 15162).

The Santa Clara County Planning Commission took action on the recent application to amend the use permit and allow the use of prior CEQA as described above. The staff recommended that the commission adopt the determination that the prior CEQA still applies to this recent application. As such, the environmental impacts of the project have been adequately evaluated in the Environmental Impact Report adopted by the Planning Commission on February 3, 2005 for the project entitled "San Martin Transfer Station and Maintenance Facility Project" and that no further environmental review is required under the California Environmental Quality Act. The Santa Clara County Planning Commission approved a Modification of the Use Permit and determined that the use of prior CEQA is adequate for the extension of the closure date for three more years of operation until 2/3/2013.

ANALYSIS

In order to evaluate this project, an investigation was conducted by the LEA regarding the noticing for this recent action by the Planning Commission. Questions were raised about the apparent lack of clarity in the notices and concern that the previous opposition was not aware of the request to remain longer.

One concern raised during the previous CEQA for the existing Transfer Station by the community was that the application made it appear that the existing transfer station would be seeking an increase in tonnage volume and subsequently more traffic. However, the facts were made clear that an actual expansion would not be the case. They were only showing larger volumes coming through the gate because the previous permits did not have to include the recycling tonnage and traffic, but only the mixed solid waste. This change was promulgated by permitting policy changes at the CIWMB for consistency to require the inclusion for permitting of all materials through the gate which previously had not been counted, such as inert concrete and soil, all recycling materials, separated wood and green yardwaste and tires. So the permit tonnage was increased only for the purposes of including all of the materials instead of simply the portion of waste received for transfer to disposal facilities.

Also at the time, the traffic had been a problem for many years. The traffic back-up onto the narrow road was the major concern. This was effectively resolved by a new entry route for additional traffic queuing within the facility. When this was completed all weekend traffic back-ups were eliminated. The final recommendation to limit the site to close in 5 years was given as a compromise between traffic impacted neighbors and the facility. It was intended to limit the transfer station lifetime to be long enough to relocate, which was the plan of the operator from the beginning. The operator has been pursuing this relocation diligently since 2005. In the

meantime, the facility has been inspected monthly by the LEA and no problems with impacts or complaints have been found.

In order to evaluate the noticing effectiveness, the LEA took extra measures to clarify what was done. The Planning Department staff provided a copy of the mailing list for the project, including the 300 foot radius from the property as well as everyone that had requested notices (somehow CalRecycle did not receive notice). Further mailings of the notices were reportedly mailed to everyone who lives on Llagas, even beyond the 300 feet.

The president of the San Martin Neighborhood Alliance, who chairs the San Martin Planning Advisory Committee, signed a letter of objection in the public record during the EIR process. She was interviewed and offered a lot of positive statements about the facility and she believes most of her 300 member mailing list of their newsletter, no longer has issues with the facility. In fact, she stated that most people she has talked to do not want them to leave now. She has verified that the subject was discussed more than once at their monthly meetings. This was also confirmed by a County of Santa Clara Planner who also attended and heard the meetings and discussions with the community.

One resident who lived beyond the radius at 13520 Llagas claimed he did not receive the notice. He had assumed the facility would soon be closing, but as long as litter is kept out of the yard, he would have no major concerns. His issue was concerning speeding (needing enforcement by CHP) and the inability of the operator to require covered of loads so that litter from speeding cars would not impact his property. I stated that I would address these issues related to the station in the stipulated agreement. Otherwise, his issues were primarily the speeding and poor drivers and afterwards he stated he would not mind the additional use of the site as long as they tried to make people cover their loads and litter spills along the street are picked up daily. New signs and notices to this effect are now being created by the operator. Also, increased litter patrols for daily cleaning are being scheduled. The LEA will maintain surveillance on this.

Another resident interviewed closer to the project site on the mailing list confirmed that the original wording as read did in fact mean the current transfer station. She recognized operator name of South Valley Disposal and knew what the applicant was trying to do at the transfer station. She said she hated to see them leaving. She stated that there was another attachment in the notice that mentioned the transfer station. Other residents concurred with this understanding of the notice and the sentiment.

The following is a summary of the meetings conducted locally and participated in by the Planning Department and the applicant:

The first meeting when an extension was definitively discussed was June 2009. Attached is the meeting history following when the possibility of an extension was presented to San Martin Planning Advisory Committee (SMPAC) and Planning Commission. The applicant had been providing regular relocation status update to the SMPAC and PC prior to June 2009. It was late spring or early summer 2008 that the status updates on relocation efforts were switched from bi-annual to monthly. Monthly updates were provided until August 2009 when the status updates switched to quarterly.

- The staff report for the June 4, Planning Commission meeting indicated that an extension may be necessary due to the delay in the environmental review for the relocation site at Pacheco Pass Closed Landfill.
- Prior to the June 3 SMPAC meeting, the applicant had spoken with both Sylvia Hamilton and Jack Bohan from the community, to give them notification that the applicant would be discussing applying for an extension to allow additional time to complete permitting for the Pacheco site. At the June 3 SMPAC a presentation and discussion with SMPAC occurred about applying for an extension, depending on the determination of whether Pacheco would require an EIR or MND to give a better idea of the length of the

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County of Santa Clara

Department of Environmental Health

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SANTA CLARA COUNTY
DEPT OF ENV. HEALTH

2010 FEB 19 AM 10:21



**ISSUANCE OF A STIPULATED AGREEMENT
TO WAIVE PERMIT CONDITION REQUIRING THAT THE SWF PERMIT
EXPIRED ON FEBRUARY 3, 2010
FOR THE SAN MARTIN TRANSFER STATION (SWIS# 43-AA-003)**

The Santa Clara County Department of Environmental Health, serving as the Local Enforcement Agency (LEA) received a written request for a Temporary Stipulated Agreement from the facility operator, Recology South Valley (formerly South Valley Disposal and Recycling). Unforeseen circumstances beyond the control of the operator, a turn of events has led to unexpected delays. Timely application was made to modify their Use Permit to allow additional years of operation, as well as the approval for a new facility in another location. Their application to modify their Solid Waste Facility Permit to update the one permit condition has been delayed beyond the permit expiration date established in Condition 17j of the SWFP to be consistent with the 2005 Use Permit. The local use permit has in fact been extended for another 3 years prior to the expiration date. The SWF permit condition which mandates the expiration of the permit and stopping all operations must now be temporarily set aside in order that the facility does not have to shut its gates. If this permit condition of expiration is not set aside, considerable number of people who have used the facility for years may likely resort to illegal dumping throughout the County. The current permit condition 17(j) states that this permit will expire on February 3, 2010. The local Use Permit been modified to allow three more years of operation at this site to allow time for the completion of the new proposed transfer station at Recology Pacheco Pass Landfill that is undergoing prolonged environmental review.

After the review of the request, the LEA has determined:

1. The operator has yet to complete permitting and construction of a new facility to replace this facility. There has been one prior attempt from 2005 to 2007 to obtain local approval for ideal sites for the operation relocation which met with disapproval, losing valuable time in the process. A second site was identified and following engineering and design, a new application for a use permit and CEQA action was initiated in October 2008 for the site at the closing Pacheco Pass Landfill. The Cal Trans review and comments from other agencies have resulted in prolonged delays that have not yet come to completion. Additional time for a new solid waste facility permit and the construction of the building, will likely extend the opening another 3 years.
2. The San Martin Transfer Station has held a valid SWF Permit for many years and is in substantial compliance with permit conditions. There have been no public complaints or adverse incidents about the facility in the past five years following the issuance of the new permit into which was placed the condition of permit expiration.
3. It is necessary to waive permit condition 17(j) in order to protect public health, safety and the environment. Specifically, the permit expiration condition will be stayed, as long the applicant continues to keep moving forward to obtain the permit modification or revision to extend the expiration date commensurate with the Use Permit.
4. Operating under the stipulated agreement will not pose a threat to public health and

Board of Supervisors: Donald F. Gage, George Shirakawa, Dave Cortese, Ken Yeager, Liz Kniss
County Executive: Jeffrey V. Smith

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5. safety or the environment. The likelihood of additional illegal dumping will be reduced and the much greater distance that vehicles will have to travel to find other disposal options would increase the likelihood of accidents or parts of loads being lost as litter or highway hazards.
6. The San Martin Neighborhood Alliance President who signed the letter of concern and opposition originally was interviewed on 2/11/2010. She has been aware of the Use Permit process to extend the time to keep the facility open. She stated that everyone she has on her 300 household mailing list has been informed of the events and meetings in the community about this matter. No one has voiced any concern or opposition to the extension and stated that the majority of the people she has spoken to wants them to stay now and wish they were not required to leave. The San Martin Planning Advisory Committee, which she chairs, has recommended the extension be made for an additional 5 years. However, Planning Staff had recommended two years so the Planning Commission made the motion and unanimously voted for the approval of three year extension.
7. The operator submitted an application to modify the SWF permit to extend the permit condition of expiration to be the same as for the Use Permit. The application was filed with the LEA on the same day as the Planning Commission voted to approved the local use permit and accept the Use of a prior CEQA document.
8. Any restrictions, conditions, or terms contained in the stipulated agreement have been agreed upon by the LEA and the permit holder.

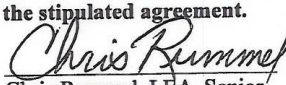
TERMS AND CONDITIONS

- A. This stipulated agreement is solely to stay the permit condition during the process of modifying or revising of the permit. This will allow the facility to continue it operation unchanged.
- B. The operator and LEA will continue to work to make good faith efforts to satisfy the requirements to obtain concurrence from CalRecycle to modify Condition 17J of the SWFP to allow operations to continue past February 3, 2010, consistent with the facility's Use Permit..
- C. The operator shall continue to make good faith efforts to permit and construct a new facility to replace this facility.
- D. The operator shall continue to comply with all other terms and conditions of the permit and maintain state minimum standards.
- E. The operator shall submit a plan to the LEA addressing the waste removal and the closure of the site 120 days prior to closing the facility.
- F. The operator shall continue to make superior efforts to daily collect litter along Llagas Avenue that has spilled from vehicles between San Martin Avenue and the transfer station. Further efforts will be added to encourage proper tarping and covering of all loads, including new entry signs and flyers.
- G. If further unforeseen circumstances prevent the permit from being reissued and the new location has not been built by Feb. 3, 2013, this stipulated agreement shall terminate and the facility must close according to the date establish in the current use permit.

The undersigned, representing the permit holder and the local enforcement agency, have agreed to the requirements and conditions set forth in the stipulated agreement.


Phil Couchee, General Manager
Authorized Representation for Operator

2/18/10
Date signed


Chris Rummel, LEA, Senior
Local Enforcement Agency

2-18-2010
Date signed